IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO No.18 of 2001

Decided on : November 1, 2006

Master Vivek Atwal **…..Appellant.**

VERSUS

Sukhbinder Singh and others **…..Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Appellant : **Mr. Ajay Sharma, Advocate.**

For the Respondents : **Mr. B.K. Malhotra, Advocate, vice Mr. Harish Behl, Advocate, for respondent No.3.**

Mr. K.D. Sood, Advocate, for respondent No.5.

None for other respondents.

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. Appellant filed a petition, under Section 166 of the Motor Vehicles Act, seeking award of compensation for the injuries sustained by him allegedly in an accident, which took place due to rash or negligent driving of Motorcycle No. HP-39-0153, by respondent No.2 Varinder Sharma.

3. Respondent No.2 Varinder Sharma denied the allegations made in the petition and alleged that the Motorcycle was in no way involved in any accident and that as a matter of fact when he reached the site of the accident driving the Motorcycle he saw that

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Whether the reporters of the local papers may be allowed to see the Judgment?

accident of a Scooter, bearing No.HP-39-1504, had already taken place and the appellant had sustained injuries, as a result of that accident.

4. Trial Court framed various issues, based on the pleadings, of the parties and after recording the evidence came to the conclusion that Motorcycle was not involved in the accident, in question, and consequently dismissed the petition.

5. I have heard the learned counsel for the appellant and gone through the record.

6. The only evidence led by the appellant in support of his plea that the accident was caused by the Motorcycle, being driven by respondent No.2, comprises of his own testimony as PW-4. He is contradicted by the contents of the FIR Ex.PB, which he lodged on the very day of the accident with the police. As per contents of the FIR, the accident had taken place because of rash or negligent driving of the Scooter, which the appellant was riding. The FIR does not speak of the Motorcycle having hit the appellant or the Scooter he was riding.

7. The aforesaid testimony of the appellant, which is contradicted by the FIR, is controverted by respondent No.2 Varinder Sharma, who appeared as RW-3.

8. In view of the above discussed position, I do not think that the Motor Accident Claims Tribunal has committed any illegality in coming to the conclusion that the Motorcycle, in question, was not involved in the accident. Hence, the appeal is dismissed.

November 1, 2006(sd) **(Surjit Singh), J.**